

FILED

JUN 19 2008

RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA

In the United States District Court
For the Northern District of California

Pagtakhan ET AL
v.
Witt ETAL

Motion To File Attach-
ed Documents On Rec-
ord (For Reference In
Case Of Retaliation)

To: THE HONORABLE COURT IN Case No. CV 08 2188 SI (PR)
THE ABOVE ENTITLED CAUSE

Please be advised that on
the ___ day of ___, 200___, at the hour of ___
in the courtroom of the Honorable Judge Susan Illston,
or as soon thereafter as this motion can be heard, plai-
ntiff will move the court for an order to file attached do-
cuments on record, for reference in case or event of ret-
aliation.

I, Marlon E. Pagtakhan, request that the court file
the attached 12 page document into my file in case of
any acts of retaliation. The attached document is a
case regarding deputy Sheriff brutality that will be
filed with the Eastern District Court in the next few
days, that I compiled for a Michael A. Serger, versus
the Sutter County Sheriff's Department ET AL.

I declare under penalty of perjury that the foregoing is tr-
ue and correct signed this 17th day of June, 2008.

Marlon E. Pagtakhan

COMPLAINT BY A PRISONER UNDER 42 U.S.C. § 1983

Michael A. Serger #2073138

Napa State Hospital Q9

2100 Napa Vallejo Hwy.

Napa, Ca. 94558

United States District Court
Eastern District Of California

Michael A. Serger

vs.

deputy Sheriff Adams

deputy Sheriff Barne

deputy Sheriff Simpson

deputy Sheriff John Doe

deputy Sheriff Kehoe (Sergeant)

Sutter County Sheriff's Department

(all in their official capacities)

County of Sutter

Case No. _____

(To be provided by the Clerk of Court)

COMPLAINT UNDER THE

CIVIL RIGHTS ACT,

Title 42 U.S.C. § 1983

I. A. No

B. n/a

(subsections for B. #'s 1 through 7 n/a)

II. A. Yes

B. Yes, complaints were filed in Sutter County Jail.

C. My Sutter County Jail complaints were neglected.

(a claim against Sutter County was filed on 5/2/08)

COMPLAINT

[1]

1 **III. A.** deputy Sheriff "John" Adams,
2 Superior Court of Sutter County

3
4 **B.** deputy Sheriff "John" Barnes,
5 Superior Court of Sutter County

6
7 deputy Sheriff "John" Simpson,
8 Sutter County Jail

9
10 deputy Sheriff "John" Doe,
11 Sutter County Jail

12
13 Sergeant deputy Sheriff "John" Kehoe,
14 Sutter County Jail

15
16 Sutter County Sheriff's Department
17 1077 Civic Center Blvd. (possible address)
18 Yuba City, Ca. 95993

19
20 County of Sutter
21 Clerk of the Board of Supervisors
22 1160 Civic Center Blvd., Ste. A
23 Yuba City, Ca. 95993

24
25 **IV. (1)** On June 11, 2007, deputy Adams
26 did willfully and unlawfully strike with
27 excessive force, Mr. Serger on his lower
28 back, in an effort to move the plaintiff

COMPLAINT

[2]

1 forward, while on transport from a holding
2 tank to the Superior Court of County of
3 Sutter for a court appearance. On the
4 way up the stairs, about halfway, deputy
5 Adams again struck Serger in the same
6 manner, all the while Serger was chained
7 and shackled.

8
9 (2) On August 6, 2007, deputy Barnec
10 did willfully and unlawfully strike with
11 excessive force, Mr. Serger, on his lower
12 right backside, as he was attempting to ch-
13 ain Serger to a wall while he was seated
14 on the bench. Barnec was commanding
15 Serger to move left on the bench when
16 he struck twice which felt to Serger as
17 a metal object. There were several inma-
18 tes present and Serger was eventually
19 chained to the wall after he was already
20 shackled. One declaration from an inmate
21 witness states Barnec slamming Serger
22 onto the bench, expiditing Serger who
23 was already complying to obey the comm-
24 and. This occuring in the Sutter County
25 Courthouse basement after an appearance
26

27 (3) On November 5, 2007, Serger was
28 called from his cell for a visit. When Ser-

1 ger was outside the visiting center waiting,
2 deputy Simpson commanded him to stand
3 at a certain spot. Simpson then left. Deputy
4 John Doe then commanded him to stand
5 elsewhere. Simpson upon return asked
6 Serger, "Why are you standing there? I
7 told you to stand right there!" (pointing)
8 Serger then complied moving the four feet di-
9 stance required by Simpson. Sergeant Ke-
10 hoe then grabbed Serger on his left after
11 he appeared on the scene, ordering the two
12 to take Serger back to his cell. One of the
13 two grabbed his right (Serger's) arm. Serg-
14 er was shackled holding legal work (pape-
15 rs) for his visit. Hooking Serger they dragg-
16 ed him down the long hallway back to his ce-
17 ll with excessive and unnecessary force. W-
18 hen Serger cried out "Stop! I'll walk! I'll
19 walk!" The two officers jokingly commande-
20 d "Walk! Walk!" while they continued to
21 drag Serger in a way that made walking
22 impossible. Upon arrival to Serger's cell #
23 A7, he was slammed down on the floor
24 face first while shackled. Serger cried
25 out that he was hurting. Kehoe then took
26 a position to Serger's right, going down to
27 one knee uncuffing Serger's hand. (left)
28 Serger put his left hand on the floor before

COMPLAINT

[4]

1 him. As he did so, Kehoe grabbed Serger by
2 the hair and repeatedly punched Serger
3 on Serger's jaw and right side of the
4 face. As he was attacked, Serger tried
5 to make way under the bunk for protection
6 with his free left hand. Crying "Please
7 e! Please! Stop! Stop!", Kehoe then put
8 two fingers into Serger's nose and forced
9 Serger's head upwards, stopping him
10 from crying aloud. Serger then complied
11 orders and put his left hand back behind
12 him. Blacking out, Serger was unaware
13 of what then transpired. (deputy Bishop,
14 who Serger believes is an honest
15 officer, must have witnessed this beating
16 from the "bubble" surveillance area.)
17 Sometime later Serger woke up when
18 food was delivered. He still remained
19 on the floor. A tray containing a hamburger
20 was layed before him. He tugged
21 a mat (makeshift bed) from the bunk
22 so that he may lay his head on it. He reached
23 for the tray with his foot and brought
24 it towards him putting it under his
25 bed. Then he slept a few hours. Upon waking,
26 he was made fun of by other
27 inmates through the vent. This continued
28 from about 4-4 pm. At about 6 o'clock

COMPLAINT

[5]

1 deputy Wicker (acting as a nurse) inspec-
 2 ted Serger's face and jaw. She the neg-
 3 legently told him it was "okay". After
 4 repeated requests he was denied medi-
 5 cal attention. (Physical exams and X-
 6 rays here at NSH have concluded that
 7 Serger suffered a broken jaw and at le-
 8 ast 3 fractured ribs.)

9
 10 (4) The Sutter County's Sheriff Dep-
 11 artment has failed to adequately train
 12 and supervise it's employees. Serger
 13 has made several complaints and req-
 14 uested medical attention to no avail.
 15 They are monetary liable for damages
 16 it's employees have caused. (negligence)

17
 18 (5) The County of Sutter has failed to
 19 supervise the Sheriff's Department and
 20 monitor any of it's corrupted practices.
 21 It is monetary liable for any damages it's
 22 public employees have caused. (negligence)

23
 24 **V.** As a result of these Public Employees
 25 and Entities', General Negligence and
 26 Intentional Torts in acts of assault an-
 27 d battery, and refusal of providing me-
 28 dical attention, violating Michael A.

COMPLAINT

[6]

Serger's Civil Rights in gross violations of state and federal statutes and law, the plaintiff seeks injunctive relief, and monetary damages as follows:

Injunctive Relief:

• Serger requests an injunction, ordering the said defendants to refrain from taunting, mocking, harassing, and committing acts of assault and battery against him. (Serger has poor syntax and may be an easy target ^{for} corrupted officers, but is sane and knows when he is being wronged.)

Monetary Damages:

• Broken Jaw	20,000
at least • 3 Fractured Ribs	60,000
(according to X-rays taken in 12/07 and patient's rights documents)	
• Pain and Suffering	80,000
• Civil Rights Violations	1,000,000
(punitive)	
	<u>\$ 1,160,000</u>

(Serger would settle for appropriate judgement.)

COMPLAINT

[7]

1 I, Michael A. Serger, declare under
2 penalty of perjury that the foregoi-
3 ng is true and correct.
4

5 Signed this 10th day of June,
6 2008.

7
8 Michael A. Serger
9 Michael A. Serger
10

11 -----
12 I, Marlon Pagtakhan, acting as a lay-
13 man advocate, helped the plaintiff
14 Michael A. Serger to the best of my
15 ability in compiling this complaint.
16

17
18 6/10/2008
19 Dated

Marlon Pagtakhan
Marlon Pagtakhan
20 -----

21
22 Michael A. Serger #2073138
23 Napa State Hospital Q9
24 2100 Napa Vallejo Hwy.
25 Napa, Ca. 94558
26

27 Attachments include an application for
28 counsel, order to show cause & TRO, and affidavit.

COMPLAINT [8]

In the United States District Court
For the Eastern District Of California

Michael A. Serger
v.
Sutter County Sheriff's
Department ETAL

Application For Appoint-
ment Of Counsel
No. _____

Michael A. Serger #2073138
Napa State Hospital Q9
2100 Napa Vallejo Hwy.
Napa, Ca. 94558

I need a lawyer as I am disabled, do not have adequate resources (material & law library), have trouble speaking, and do not know the law well.

I declare under penalties of perjury that the foregoing is true. I understand that if assigned a lawyer, and that my lawyer learns I can afford a lawyer, he/she may submit this information to the court. If my answers on my application to Proceed in Forma Pauperis are false, my civil rights action may be dismissed.

Signed on this 15th day of June, 2008.

Michael Arthur Serger
Michael Arthur Serger

ORDER TO SHOW CAUSE AND TEMPORARY ORDER ("TRO")

In the United States District Court
For the Eastern District Of California

Michael A. Serger
v.
Sutter County Sheriff's
Department ET AL

Order to Show Cause for
Preliminary Injunction and
Temporary Restraining Order
Civil Action No. _____

Upon the complaint, supporting affidavits of plaintiff
sworn to the 15th day of June, 2008, and the
memorandum of law submitted herewith, it is:

ORDERED that the above named defendants A-
dams, Barnec, Simpson, "John Doe," Kehoe, sh-
ow cause in room _____ of the United States C-
ourthouse, 501 I St., Sacramento, California 9-
5814, on the _____ day of _____, 2008, at _____
o'clock, or as soon thereafter as counsel may
be heard, why preliminary injunction should
not issue pursuant to Rule 65(a) of the Feder-
al Rules of Civil Procedure enjoining the defe-
ndants, their successors in office, agents and
employees and all other persons acting in con-
cert or participation with them, are restraine-
d from taunting, mocking, harassing, and com-
mitting acts of assault and battery against

him. (Michael A. Serger)

IT IS FURTHER ORDERED that effective immediately, and pending the hearing and determination of this order to show cause, the defendants Adams, Barnec, Simpson, "John Doe", Kehoe, and each of their officers, agents, employees, and all persons acting in concert or participation with them, are restrained from taunting, mocking, harassing, and committing acts of assault and battery against Michael A. Serger.

IT IS FURTHER ORDERED that personal service of a copy of this order and annexed affidavit upon the defendants or his counsel on or before _____, shall be deemed good and sufficient service thereof.

Dated :

United States District Judge

In the United States District Court
For the Eastern District Of California

Michael A. Serger
v.
Sutter County Sheriff's
Department ET AL

AFFIDAVIT

Civil Action No. _____

AFFIDAVIT OF MICHAEL A. SERGER

I, Michael Arthur Serger, being duly sworn according to the law depose and say that I am the Plaintiff in the above entitled proceeding.

I fear for my life, and person, having already been beaten (assaulted) by the said defendants and feel I will be further assaulted and beaten if federal injunctive relief is not granted. My complaints were unanswered.

All of the information I have submitted in support of my request is true and correct.

Sworn to before me this _____ day of _____, 2008.

NOTARY PUBLIC

[1]

Sign here before notary public

FILED

06 JUN 19 PM 12:27

RECEIVED W. WELKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Proof of Service – Mail

PROOF OF SERVICE

Re: Case Number CV 08 2188 SI (PR)
Case Title Pagtakhan ET AL
v. Witt ET AL

I hereby declare that I am a citizen of the United States, am over 18 years of age, and am/~~am not~~ a party in the above-entitled action. I ~~am employed in~~/reside in the County of ??? and my ~~business~~/residence address is

Napa State Hospital Q9, 2100 Napa
Vallejo Hwy., Napa, Ca. 94558-16293

On 6/17/08, I served the attached document described as a motion to file attached documents on
record (1 page), attached document (12 pages)

on the parties in the above-named case. I did this by enclosing true copies of the document in sealed envelopes with postage fully prepaid thereon. I then placed the envelopes in a U.S. Postal Service mailbox in Napa State Hospital, California, addressed as follows:

Office of the Clerk, U.S. District Court
Northern District of California
450 Golden Gate Avenue
San Francisco, California 94102

I, Marlon Estacio Pagtakhan, declare under penalty of perjury that the foregoing is true and correct.

Executed on June 17th, 2008, at Napa State Hospital
Napa, California.

Marlon E. Pagtakhan
Signature

Marlon E. Paotakhan QQ
NAPA STATE HOSPITAL 2074227
2100 NAPA VALLEJO HWY.
NAPA, CA 94558-6293

(2 FIRST CLASS STAMPS)
USA FIRST-CLASS FOREVER
USA FIRST-CLASS FOREVER
OAKLAND, CA
JUN 18 2008
PM 4:15-9:15
Office of the Clerk, U.S. District Court
Northern District of California
450 Golden Gate Avenue
San Francisco, California 94102

(LEGAL MAIL)